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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,468	08/27/1999	JERRY IGGULDEN	D00607/70007.US NPF	7882
8791	7590	07/07/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			TRAN, THAI Q	
		ART UNIT		PAPER NUMBER
				2616

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/384,468	IGGULDEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thai Tran	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 February 2005 and 25 May 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 40 and 41 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 40 and 41 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on Feb. 18, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 5,333,091 and US Patent No. 5,987,210 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 40-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 4 of U.S. Patent No. 5,692,093. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Regarding claim 40 of this application, claim 4 of U.S. Patent No. 5,692,093 recited a method of automatically eliminating portion of a recorded video program comprising the steps of:

- (a) recording a video signal on a recording medium;
- (b) monitoring the video signal as it is recorded to detect events therein;
- (c) storing data representative of a time of occurrence of each event;
- (d) analyzing the data to classify segments of the video signal between events as one of the first and second type;
- (e) storing a playback map containing entries, each of which identifies a segment of the video signal classified as the second type;
- (f) playing the recording medium to reproduce the video signal recorded thereon;
- (g) rapidly scanning past each said segment of the video signal classified as the second type. However, claim 4 of U.S. Patent No. 5,692,093 does not specifically recite that the detecting events in the video program, each of said events being at least one of the flat frame, a silent frame and a cut.

It is noted that detecting scene changes by detecting at least one of the flat frame, a silent frame and a cut is well known and old in the art and; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known scene change detection into claim 4 of U.S. Patent No. 5,692,093 in order to reduce the time in accessing desired video signal by rapidly accessing the beginning of the scene of the video signal.

Claim 41 of this application is rejected over claim 1 of U.S. Patent No. 5,692,093 for the same reasons as discussed in claim 40 of this application.

4. Claims 40-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17 and 23 of U.S. Patent No. 5,696,866. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Regarding claim 40 of this application, claim 23 of U.S. Patent No. 5,696,866 recites a method of eliminating commercial message during playback of a television program recorded on a recording medium comprising the steps of:

- (a) detecting an event in the television signal as the television program is recorded;
- (b) storing data representative of a tape location for said detected event;
- (c) analyzing said detected event to classify a segment of the television signal adjacent to said detected event as one of commercial and non-commercial;
- (d) marking the recording medium with a signal to identify said segment of the television signal if it is classified as commercial;
- (e) replaying the recorded television program such that said segment is replayed at a normal rate if it is classified as non-commercial and is replayed at a higher than normal rate if it is classified as commercial. However, claim 23 of U.S. Patent No. 5,696,866 does not specifically recite that the detecting events in the video program, each of said events being at least one of the flat frame, a silent frame and a cut.

It is well known and old in the art that one of the simple way to detect the commercial is to detecting at least one of the flat frame, a silent frame and a cut and; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known commercial detection into claim 23 of U.S. Patent No. 5,696,866 in order to simplify the process of detecting commercials.

Claim 41 of this application is rejected over claim 17 of U.S. Patent No. 5,696,866 for the same reasons as discussed in claim 40 of this application.

5. Claims 40-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of U.S. Patent No. 5,999,688. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Regarding claim 40 of this application, claim 6 of U.S. Patent No. 5,999,688 recited a video playback system comprising:

- (a) a video player having a play mode, a fast scan mode and a reverse mode;
- (b) a recording medium for inserting into the video player, said recording medium having a video signal recorded thereon;
- (c) means for commanding the video player to enter the fast scan mode;
- (d) event detection means for automatically detecting events within viewable lines of video frames in the video signal;
- (e) storage means for storing data identifying a location on the recording medium of a most recently detected event;

(f) means for commanding the video player to enter the reverse mode unit reaching said location on the recording medium of a most recently detected event. However, claim 6 of U.S. Patent No. 5,999,688 does not specifically recite that the detecting events in the video program, each of said events being at least one of the flat frame, a silent frame and a cut and the claimed analyzing temporal spacing of the events to classify segments of the video program between events as belonging to one of a first and second category.

It is noted that detecting commercial by detecting at least one of the flat frame, a silent frame and a cut and analyzing temporal spacing of the events is well known and old in the art and; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the well known commercial detection into claim 6 of U.S. Patent No. 5,999,688 in order to eliminating commercials during playing the video program by skipping the commercials. It also have been obvious to recognize that the method claim 40 of this application can be practiced by the apparatus of claim 6 of U.S. Patent No. 5,999,688.

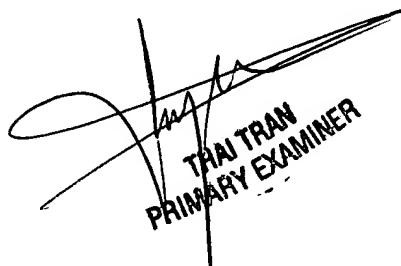
Claim 41 of this application is rejected over claim 6 of U.S. Patent No. 5,999,688 for the same reasons as discussed in claim 40 of this application.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Tran whose telephone number is (571) 272-7382. The examiner can normally be reached on Mon. to Friday, 8:00 AM to 5:30 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTQ



A handwritten signature in black ink, appearing to read "Trai Tran". To the right of the signature, the name "TRAI TRAN" is printed vertically, followed by "PRIMARY EXAMINER" in a slightly smaller font.